

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 01-2998

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United States of America,

Appellee,

v.

Juan Jose Padilla,

Appellant.

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\* Appeal from the United States  
\* District Court for the  
\* District of Nebraska.  
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\* **[UNPUBLISHED]**  
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Submitted: February 5, 2002

Filed: February 6, 2002

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Before LOKEN, BEAM, and RILEY, Circuit Judges.

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PER CURIAM.

A jury found Juan Jose Padilla guilty of conspiring to distribute at least 50 but less than 500 grams of methamphetamine. The district court<sup>1</sup> sentenced him to 78 months in prison and five years supervised release. Padilla appeals, challenging the sufficiency of the evidence and the denial of his request for a downward departure. We affirm.

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<sup>1</sup>The HONORABLE RICHARD G. KOPF, Chief Judge, United States District Court for the District of Nebraska.

At trial, two witnesses testified that Padilla sold them resale quantities of methamphetamine, and introduced one of them to other methamphetamine sources. Another witness testified that Padilla and an alleged conspirator provided a reseller with methamphetamine which was stored for later distribution. The jurors were free to accept or reject any witness's testimony in whole or in part. See United States v. One Star, 979 F.2d 1319, 1321(8th Cir. 1992). Examining the evidence in the light most favorable to the jury verdict and giving the verdict the benefit of all reasonable inferences, see United States v. Robinson, 217 F.3d 560, 564 (8th Cir.), cert. denied, 531 U.S. 999 (2000), we conclude the evidence supports Padilla's conspiracy conviction. See United States v. Miller, 91 F.3d 1160, 1162 (8th Cir. 1996) (evidence of multiple sales of resale quantities of drugs is sufficient to make submissible case of conspiracy to distribute); United States v. Dugan, 238 F.3d 1041, 1044-45 (8th Cir. 2001) (appellate court does not reweigh evidence or judge credibility of witnesses).

The district court's discretionary decision to deny Padilla's request to depart downward is unreviewable. See United States v. Saelee, 123 F.3d 1024, 1025 (8th Cir. 1997). Accordingly, we affirm and deny Padilla's pending motion for new counsel.

A true copy.

Attest:

CLERK, U. S. COURT OF APPEALS, EIGHTH CIRCUIT.